

## REMARKS

### INTRODUCTION

In accordance with the foregoing, no claims have been amended. Claims 1, 3-7 and 16 are pending and under consideration.

### CLAIM REJECTIONS

Claims 1 and 16 were rejected under 35 USC 102(b) as being anticipated by Son et al. (US 6,282,161) (hereinafter "Son").

Claims 3-6 were rejected under 35 USC 102(b) as being anticipated by Akagi et al. (US 6,434,096) (hereinafter "Akagi").

Claim 7 was rejected under 35 USC 103(a) as being unpatentable over Son in view of Nishiwaki (US 6,704,254) (hereinafter "Nishiwaki").

#### Claim 1

Claim 1 recites: "...the recording or reproducing sector of the disc is based on information on the position of a pickup based on the number of pulses for driving a motor for controlling movement of the pickup in the disc drive."

In the Office Action, in the Response to Remarks section, the Examiner notes that Son's pickup moving means is inherently driven by a plurality of digital pulses such as a series of tracking servo pulses to drive the pickup 20 to a chosen sector.

It is respectfully submitted that inherency may only be used in very limited circumstances where minor, well known features of the claimed invention are missing from the relied upon prior art reference. See *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 20 USPQ2d 1746 (Fed. Cir. 1991). In the present case, the Examiner is relying on a reference that makes almost no reference to Son's "moving means" discussed in the Office Action. Referring to 4:26-4:40 and Figure 2 of Son, the optical recording and reproducing apparatus shown in FIG. 2 includes an optical pickup 20, an optical pickup support unit 24, a displacement sensor 26, a tilt driving unit 28, a tilt driving motor 30, a reproducing signal generator 32, a jitter detector 34, a tilt controlling unit 36, and a memory 38. The optical pickup 20 records information on a disk 11 or reproduces the information recorded on the disk 11 and includes an object lens 21. The optical

pickup support unit 24 on which the optical pickup 20 is positioned pivots around a fixing support 22. The displacement sensor 26 includes a reflector 26a fixed on a lower surface of the optical pickup support unit 24, a light emitting device 26b fixed on an upper surface of an optical pickup fixing frame 3 and a light receiving device 26c. This section of Son appears to mirror the rest of Son and only discusses tilt adjusting components of the optical recording apparatus.

By contrast, claim 1 recites that recording or reproducing sectors of the disc is based on information on the position of a pickup based on the number of pulses for driving a motor for controlling movement of the pickup in the disc drive. As argued in previous responses, Son does not discuss recording or reproducing sectors. Nor does it discuss a motor for controlling movement of the pickup in the disc drive.

It is also well established that the Examiner must point to "page and line" of the prior art to support inherency. See *Ex Parte Schricker*, 56 USPQ2d 1723 (BPAI 2000). It is respectfully submitted that in a prior art reference that does not discuss the moving means for the pickup, that further finding inherent features of the motor for controlling movement of the pickup in the disc drive, such as that recording or reproducing sectors of the disc are based on information on the position of a pickup based on the number of pulses, is not appropriate.

This technical feature of claim 1 is directed to solving the problem where when data is repeatedly reproduced from a disc that is tilted, a tilt correcting operation is repeatedly performed in the same sector of the disc and therefore inefficiently performs the tilt correcting operation.

Withdrawal of the foregoing rejection is requested.

### **Claims 3-6**

Independent claims 3 and 5 recite: "...wherein the memory stores a position information for each of the plurality of recording and reproducing sectors of the disc expressed as a number of pulses necessary to drive a stepping motor of the disc drive."

The Office Action relies on Figure 13 of Akagi to show the feature of claims 3 and 5 where the memory stores a position for the recording and reproducing sectors as a number of pulses necessary to drive a stepping motor. However, it is respectfully submitted that in Akagi, the fifth memory circuit 42 is a memory for storing an object lens displacement amount 105 estimated by the object lens displacement observer 19. See Akagi, 32:1-32:3. Accordingly, the displacement is not stored in terms of sectors or in terms of pulses. Also in Akagi, in the tracking

correction control loop 202, the operation of the optical pickup 4 is simulated by the object lens displacement observer 19 to estimate the positional displacement amount of the object lens 8. See Akagi, 19:31-19:34.

However, it is respectfully submitted that the technical feature of claims 3 and 5 where the memory stores a position for the recording and reproducing sectors as a number of pulses necessary to drive a stepping motor is not discussed in Akagi.

Claims 4 and 6 depend on claims 3 and 5, respectively, and are therefore believed to be allowable for at least the foregoing reasons.

Withdrawal of the foregoing rejection is requested.

**Claim 7**

Claim 7 recites: "...wherein the recording or reproducing sector of the disc is based on information on the position of a pickup based on the number of pulses for driving a motor for controlling movement of the pickup in the disc drive." The Office Action relies on Son to discuss this feature of claim 7. It is respectfully submitted that Son does not discuss the moving means for the pickup, or features of the implied motor for controlling movement of the pickup in the disc drive, or that recording or reproducing sectors of the disc are based on information on the position of a pickup based on the number of pulses.

Further, this deficiency in Son is not cured by Nishiwaki, which was relied upon to show an optical disk control method encoded in a computer readable medium.

Withdrawal of the foregoing rejection is requested.

**Claim 16**

Claim 16 recites: "...wherein the recording or reproducing sector of the disc is based on information on the position of a pickup based on the number of pulses for driving a motor for controlling movement of the pickup in the disc drive." It is respectfully submitted that Son does not discuss the moving means for the pickup, or features of the implied motor for controlling movement of the pickup in the disc drive, or that recording or reproducing sectors of the disc are based on information on the position of a pickup based on the number of pulses.

Withdrawal of the foregoing rejection is requested.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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